

## **AGREEMENT FOR FINANCIAL ADVISORY SERVICES**

### **IT IS HEREBY AGREED AS FOLLOWS:**

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination other terms and conditions, and attach plans, specifications, and addenda, if any)*

THIS AGREEMENT is made and entered into this \_\_\_\_\_ 2003, by and between the Redevelopment Agency of the County of San Bernadino (the "Agency"), and CSG Advisors, (the "Financial Advisor"). The Agency and the Financial Advisor in consideration of the mutual promises and conditions herein contained agree as follows:

### **ARTICLE I** **TERM OF CONTRACT**

**Section 1.1** This agreement shall become effective on the date stated above and will continue in effect until terminated as provided in Article 6 below.

### **ARTICLE II** **SERVICES TO BE PERFORMED BY CONSULTANT**

**Section 2.1** Financial Advisor agrees to perform the professional services for the Agency and to deliver the work products to the Agency as described in the Scope of Work statement attached as Exhibit "A" hereto.

**Section 2.2** Financial Advisor will determine the method, details and means of performing the Consulting Services. Financial Advisor may, at Financial Advisor's own expense, employ such assistance as it deems necessary to perform the Financial Advisory services require by Agency under this Agreement. Financial Advisor shall conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation or counsel independent of the control and direction of the Agency, other than normal contract monitoring.

**Section 2.3** Any proposed changes in the Financial Advisory Services hereunder shall be submitted to the other party hereto, and any such changes agreed to by the parties shall be reflected in an amendment to the Scope of Work attached as Exhibit "A" in accordance with Section 7.2 hereto.

**Section 2.4** Nothing in this Agreement shall give the Financial Advisor possession of authority with respect to any Agency decision beyond the rendition of information, advice, recommendation or counsel.

### **ARTICLE III** **COMPENSATION**

**Section 3.1** Agency agrees to pay Financial Advisor for its Financial Advisory Services a professional fee computed according to the Fee Schedule attached as Exhibit "B" depending on the services performed under Exhibit "A" hereto.

**Section 3.3** For hourly non-contingent work, on or about the first two weeks of each month during which Financial Advisory Services are rendered hereunder, Financial Advisor shall present to Agency an invoice covering the current Financial Advisory Services performed and the reimbursable expenses incurred pursuant to this Agreement and exhibits thereto. Such invoices shall be paid by Agency within thirty (30) days

of the date of each invoice. For contingent fixed fee work Financial Advisor will be at the appropriate point in the financing process.

**Section 3.4** Records of the Financial Advisor's costs relating to (i) the Financial Advisory Services performed under this Agreement and (ii) reimbursable expenses shall be kept and shall be available to the Agency or to Agency's authorized representative at reasonable intervals during normal business hours.

#### **ARTICLE IV**

#### **OTHER OBLIGATIONS OF FINANCIAL ADVISOR**

**Section 4.1** Financial Advisor agrees to perform the Financial Advisory Services in accordance with Exhibit "A". Should any errors caused by Financial Advisor's negligence be found in such services or products, Financial Advisor will correct them at no additional charge by revising the work products called for in Exhibit "A" to eliminate the errors.

**Section 4.2** Financial Advisor will supply all tools and instrumentalities required to perform the Financial Advisory Services under the Agreement.

**Section 4.3** Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Financial Advisor without the prior written consent of Agency. However, Financial Advisor may subcontract portions of the work to be performed hereunder to other persons or concerns provided Financial Advisor notifies Agency of the name and address of said proposed sub-consultant and Agency either consents or fails to respond to notification with respect to the use of any particular proposed sub-consultant.

**Section 4.4** In the performance of its Financial Advisory Service hereunder, Financial Advisor is, and shall be deemed to be for all purposes, an independent contractor (and not an agent, officer, employee or representative of Agency) under any and all laws, whether existing or future. Financial Advisor is not authorized to make any representation, contract or commitment on behalf of Agency.

**Section 4.5** Neither this Agreement, any duties or obligations under this Agreement, nor the intentions or expectations of Agency will cause the Financial Advisor to be a "public official" as that term is used in Section 87100 of Title 9 of the California Government Code. Agency and Financial Advisor agree that Financial Advisor is not a "public official" or "participating in governmental decision" as those terms are used in Section 87100. The Agency and Financial Advisor also agree that no actions and opinions necessary for the performance of duties under the Contract will cause the Financial Advisor to be a "public official" or "participating in a governmental decision" as those terms are used in Section 87100.

#### **ARTICLE V**

#### **OTHER OBLIGATIONS OF AGENCY**

**Section 5.1** Agency agrees to comply with all reasonable requests of Financial Advisor and provide access to all documents reasonable necessary to the performance of Financial Advisor's duties under this Agreement with the exception of those documents that Exhibit "A" calls upon the Financial Advisor to prepare.

**Section 5.2** Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Agency without the prior written consent of Financial Advisor.

**Section 5.3** In the event that court appearances, testimony or depositions are required of Financial Advisor by Agency in connection with the services rendered hereunder, Agency shall compensate Financial

Advisor at a rate of \$250 per hour and shall reimburse Financial Advisor for out-of-pocket expenses on a cost basis.

## **ARTICLE VI** **TERMINATION OF AGREEMENT**

**Section 6.1** Either party may terminate or suspend this Agreement upon thirty (30) days written notice. Unless terminated as provided herein, this Agreement shall continue in force until the Financial Advisory Services set forth in Exhibit "A" have been fully and completely performed and all proper invoices have been rendered and paid.

**Section 6.2** Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party at its option may terminate this Agreement by giving written notification to the defaulting party. Such termination shall be effective upon receipt by the defaulting party, provided that the defaulting party shall be allowed ten (10) days in which to cure any default following receipt of notice of same.

## **ARTICLE VII** **GENERAL PROVISIONS**

**Section 7.1** Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change the address by written notice in accordance with the first sentence of this Section 7.1. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of two (2) days after mailing.

**For the Financial Advisor:**

Robert Cornwell  
Principal  
CSG Advisors, Incorporated  
One Post Street Suite 2130  
San Francisco, CA 94104

**For the Agency:**

John Nowak  
Redevelopment Administrator  
County of San Bernardino  
215 North "D" Street, Suite 201  
San Bernardino, CA 92415

**Section 7.2** Agreement and exhibits hereto supersede any and all agreements, either oral or written, between the parties hereto with respect to the rendering of service by Financial Advisor for Agency and contains all of the covenants and agreements between the parties with respect to the rendering of such services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement (including any exhibit hereto) will be effective if it is in writing and signed by the party against whom it is sought to be enforced.

**Section 7.3** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**Section 7.4** This Agreement will be governed by and construed in accordance with the laws of the State of California.

Additional Named Insured – All policies, except for the Workers Compensation, shall contain additional endorsements naming the County, the Agency, and their officers, employees agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

Waiver of Subrogation Rights – Financial Advisor shall require the carriers of the above required coverage to waive all rights of subrogation against the County, the Agency, and their officers, employees, agents, volunteers, consultants and sub-consultants.

Policies Primary and Non-Contributory – All policies above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County or the Agency.

Proof of Coverage – Financial Advisor shall immediately furnish certificates of insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department; and Financial Advisor shall maintain such insurance from time Financial Advisor commences performance of services hereunder until the completion of such services.

Within thirty (3) days of the commencement of this Agreement, the Financial Advisor shall furnish certified copies of the policies and all endorsements.

Insurance Review – The above insurance requirements are subject to periodic review by the Agency and County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the Agency or County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the Agency or County, inflation, or any other item reasonable related to the Agency or County's risks.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or high coverage limits must be made by amendment to this Agreement. Financial Advisor agrees to executive any such amendment within thirty (30) days of receipt.

## **ARTICLE VIII**

### **EQUAL EMPLOYMENT**

Financial Advisor agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practice Act, and other applicable Federal, State and County laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

## **ARTICLE IX**

### **ATTORNEY'S FEES AND COST**

If any legal action is instituted to enforce or declare any party's rights hereunder, each party including the prevailing party, must bear its own costs and attorney's fees except as otherwise provided by law. This paragraph shall not apply to those costs and attorney's fees arising directly from any third party legal action against a party hereto and payable under article IV, Indemnification.

**ARTICLE X**  
**JURY TRAIL WAIVER**

Financial Advisor and District hereby waive their respective right to trial by jury and agree to accept trial by judge alone for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either Financial Advisor against District, or District against Financial Advisor, on any matter whatsoever arising out of, or in anyway connected with, this Agreement.

**ARTICLE XI**  
**CONSULTANT'S WARRANTY OF ADHERENCE TO  
COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Financial Advisor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers. As required by County's Child Support Compliance Program (County Code Section 110.0101 et seq.) and without limiting Financial Advisor duty under this contract to comply with all applicable provisions of law. Financial Advisor warrants that it is now in compliance and shall during the term of this contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earning Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b). Financial Advisor hereby acknowledges the County may require the Financial Advisor to submit a completed Principal Owner Information (POI) Form upon request of the District Attorney.

**TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.** Failure of FINANCIAL ADVISOR to maintain compliance with the requirements set forth in the preceding paragraph shall constitute default by Financial Advisor under this contract. Without limiting the rights and remedies available to COUNTY under law or under any other provision of this contract, failure to cure such default within 90 days of notice by the San Bernardino County District Attorney shall be grounds upon which the County of Supervisors may terminate this contract.

**ARTICLE XII**  
**FORMER COUNTY OFFICIALS**

Financial Advisor agrees to provide information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent the Financial Advisor. The information provided should include a list of former county administrative officials who terminated their county employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information should also include the employment with or representation of Financial Advisor. For purposes of this provision, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Employee Classification Group, Management Unit or Safety Management Unit.

**ARTICLE XIII**  
**INACCURACIES OR MISREPRESENTATION**

If during the course of the administration of this agreement, the District determines that the Financial Advisor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the District, this contract may be immediately terminated. If this contract is terminated according to this provision, the District is entitled to pursue any available legal remedies.

IN WITNESS WHEREOF, the Board of Supervisors of the County of San Bernardino, acting as the governing board of the District, has caused this Contract to be subscribed by its duly authorized officers, in its behalf, and the said party of the second part has signed this Contract.

AGENCY:

FINANCIAL ADVISOR: CSG Advisors, Incorporated

\_\_\_\_\_  
Dennis Hansberger, Chairman, Board of Directors

Dated \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD.

Secretary of the Board of Directors of the Redevelopment  
Agency of the County of San Bernardino

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
Corporation

(State if corporation, company etc.)

By \_\_\_\_\_

(Authorized Signature)

Dated \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Approved as to Legal Form	Reviewed as to Contract Compliance	Reviewed for Processing
x	x	x
Counsel		Department Head
Date _____	Date _____	Date _____